Yukon Information and Privacy Commissioner

Annual Report 2009

Information and Privacy Commissioner Message

ATIPP Act Amendments — A step in the right direction

After years of urging a comprehensive review to modernize and revise Yukon's *Access to Information and Protection of Privacy (ATIPP) Act*, the government proposed eight specific changes to the Act in 2008. While I was pleased that government was considering amending specific sections, I urged it to embark on a comprehensive review of the Act instead. In the end, a process to consider only the limited amendments went ahead.

My office had a unique perspective to offer and was able to draw upon more than twelve years' experience with the intricacies of the legislation. My submission made nineteen recommendations, eight regarding to the government's proposed amendments, four regarding additional changes and seven addressing simple housekeeping matters.

In December 2008, amendments to Yukon's access and privacy law were passed in the Legislative Assembly.

The amendments have, for the most part, fallen with what I recommended to the government during the public consultation process in 2008 and those implemented can be described as follows:

- Stopping the clock for administrative delays
- Right to Request a Review on a five-month decision
- Discretion to conduct an inquiry
- Mediation process to continue
- Disregarding frivolous or vexatious requests
- Extending time for multiple concurrent requests
- Access requests can be deemed abandoned
- Comprehensive powers and protections for the Information and Privacy Commissioner (IPC)
- Addition to rights of appeal
- Clarification respecting third party business interests

These changes show progress and are certainly a step in the right direction. My staff can provide more information or explain any of the amendments to the ATIPP Act.

Two particular amendments address long standing problems with the law. The scope of the ATIPP Act has been expanded to include the Yukon Hospital Corporation, Yukon College, Yukon Development Corporation, Yukon Energy Corporation and the Yukon Workers' Compensation Health and Safety Board. As a result, these organizations must now comply with the privacy and access provisions of the Act.

However, I was disappointed that the government did not accept my recommendation to designate Yukon municipalities, school boards, school councils and a variety of other organizations as public bodies at this time.

The Yukon government is developing criteria to identify additional organizations that will be added to the list of public bodies over time, but it will take an additional 36 months to complete the criteria. That is far too long. In my view, there is no reason that useful criteria couldn't be developed in a much shorter time period. Currently, the ATIPP legislation is not as effective as it could be, partly because the list of bodies that it covers is not extensive enough. I asked the government to begin work immediately on this task and complete it in an efficient manner, so that the list of public bodies covered by ATIPP is expanded with certainty, as quickly as possible.

It was also a positive step that the government passed the amendment which requires that a comprehensive review of the ATIPP legislation be undertaken every six years. However, the first review isn't required until 2015. I recommended that a comprehensive review should be done much sooner. Information technology is changing at lightning speed and the law that regulates privacy and access to information and records must keep pace.

ATIPP Coordinators

Each Government of Yukon department has a designated ATIPP Coordinator who receives, clarifies, searches and responds to requests for access to information, along with the many other duties of their regular job. Their work is time-sensitive, complex and ever-changing. ATIPP Coordinators should be recognized as access and privacy specialists and need to be given the necessary resources, training and guidance to help their departments comply with the law. ATIPP Coordinators help the public navigate the often complicated world of access and privacy. Thanks to them for their diligence and expertise.

ATIPP Guidelines

With recent changes to the ATIPP Act and the creation of several new public bodies, government guidelines are needed now more than ever. Some public bodies receive access requests every week, others might only receive one a year. As a result, ATIPP Coordinators have a wide range of experience. My office has persistently urged the government to develop ATIPP Act guidelines for Yukon public bodies. Guidelines would set out expectations for complying with the ATIPP Act and help ensure timely, consistent and accurate responses to access requests and consistent record keeping and privacy practices by all public bodies.

New Tools

Our office advocates the preparation of a Schedule of Records when a public body is searching for records and responding to every access request.

A Schedule of Records is an invaluable tool in responding to any access request. It helps the public body identify the appropriate records and helps the applicant understand which records are being released or withheld and why. A sample Schedule of Records is available in our *Contents of a Response* Best Practice (p. 4) on our website at **www.ombudsman.yk.ca/privacy/ipcpublications.html**.

When applicants Request a Review of a response from a public body, the first step in that process is to provide an opportunity for the parties to attend mediation. If mediation is not chosen or successful the next stage is that of an Inquiry. An Inquiry is a formal process requiring notice, written submissions and replies. In every Inquiry, I will now consider holding a Pre-Inquiry Conference for the parties to attend. Such a Conference provides an opportunity for outstanding issues to be clarified and for me to set out my expectations in order that written arguments can be focused and complete.

The implementation of both of these tools can lead to a much faster resolution of issues. An example of the value of a Schedule of Records and a Pre-Inquiry Conference is reported later in *Public Bodies — Take Time to Save Time*.

Yukon Deserves a Full-time Ombudsman and Information & Privacy Commissioner

My work is compelling and dynamic and it is my honour to serve the people of the Yukon. But I continue to be frustrated by the government's failure to recognize that limiting this position to half-time negatively impacts my ability to achieve the legislated objectives and properly serve the people of the Yukon.

In 1996, when the Yukon government established the Office of the Ombudsman and Information and Privacy Commissioner it made a commitment to an efficient, expedient and inexpensive way to identify problems, resolve issues and ultimately improve government services. The office is an integral part of an open and accountable government.

In 1996, the dual Ombudsman and Information & Privacy Commissioner position was created as one half-time position, which is still the case in 2009. This equates to less than two hours per day for each of the three functions. Fourteen years ago that may have been sufficient. That is no longer the case.

I urged the government in both 2007 and 2008 to make the position full-time. I advised them that a half-time Ombudsman and Information and Privacy Commissioner cannot adequately fulfill all the duties of the office. To date, they have denied this request.

Yukon Ombudsman & Information and Privacy Commissioner

Our Mission

To provide independent oversight of the ATIPP Act;

To receive and process public complaints and requests for review from citizens who feel their access to information rights or their privacy rights have not been respected by a public body;

To comment on the implications of existing or proposed programs or legislation for access to information or for protection of privacy; and

To promote openness and accountability in public administration.

Looking Forward

Several recent cases have brought to our attention the considerable issues that face Yukon's boards, commissions and tribunals. We have concerns about the guidance, support, and training provided to these organizations that play a vital role in the Yukon administrative justice system. In the coming year my office will explore these issues and focus on fostering fair and consistent processes, proper record keeping and access and privacy practices consistent with the *Access to Information and Protection of Privacy Act*.

To address the ongoing mystery of who we are and what we do, public education about the role of the Ombudsman and the Information and Privacy Commissioner and the service we provide to Yukoners, will be a priority for us in 2010.

The development of more Best Practices, a new brochure, a seniors info card and an updated website are all projects planned to reach beyond our current audience and raise awareness of the services we provide. An Ombudsman-Information and Privacy Commissioner business plan, to guide and direct the work of the office, would also be a great addition to our public reporting materials.

14th Annual Report

It is my honour and privilege to offer the people of the Yukon this 14th Annual Report of the Yukon Information and Privacy Commissioner. This is my third Annual Report. It has been sent to the Honourable Ted Staffen, Speaker of the Yukon Legislative Assembly, who will present it to the Assembly as required by the *Access to Information and Protection of Privacy Act*.

Tracy-Anne McPhee
Ombudsman
Information and Privacy Commissioner

Our Team

Tracy-Anne McPhee: Ombudsman/ Information and Privacy Commissioner
Tracy is an Officer of the Legislative Assembly and was appointed in April 2007 for a five-year term.

Catherine Buckler Lyon: Senior Investigator/Mediator
Catherine has been with the Office of the Ombudsman/IPC since its inception in 1996. As Senior Investigator/Mediator, she deals with a majority of the *Access to Information and Protection of Privacy* (ATIPP) *Act* files, reviews and investigations.

Susan Dennehy: Investigator/Mediator/Legal Counsel
Susan is legal counsel to the Ombudsman and deals with the majority of the Ombudsman complaints that we receive. Susan has worked with the Ombudsman since 1999 and joined our office in 2001.

Danielle Hoef: Executive Assistant
Danielle is the newest member of our team and is responsible for the day-to-day operations of the office. She came on board in December 2009.

L-R: Susan, Danielle, Tracy, Catherine

What Does the Information and Privacy Commissioner Do?

The Commissioner is an independent authority responsible to the Yukon Legislative Assembly. There are four main elements in her mandate, set out in the ATIPP Act:

1. Respond to any requests for a review of decisions made by public bodies or the Yukon government Records Manager about access requests;
2. Respond to complaints from individuals about the protection of their personal privacy and administration of the ATIPP Act;
3. Provide comment to public bodies on existing or proposed programs or legislation that may affect the access or privacy rights of Yukoners; and
4. Provide education and public information about access to information and protection of privacy rights, as set out in the ATIPP Act. ■

Community Outreach

The Office of the Information and Privacy Commissioner is a free service available to all Yukoners. We strive throughout the year to publicize our work to ensure Yukoners are aware of the services that are available to them, how our office can help they might need them.

We use a variety of educational tools, such as public education sessions, presentations, news releases and brochures. During 2009, we continued to work on public education materials, including work on a new website to be launched in 2010.

Right to Know Day was established in 2002 and has grown into a worldwide, week-long event. See more details about our Yukon Right to Know Week events in this Report.

In addition to our own initiatives, we work to make ourselves available to the public at their request. Our office hosts public education sessions or can make specific presentations, upon request, to provide people with a better understanding of what we do and why the ATIPP Act should matter to them. We encourage Yukoners to contact us if they are interested in learning more about our services. We consider public education about our office an essential part of our job. ■

Thank You...

Our appreciation and best wishes go out to Alice Purser as she takes her career in a new direction. Alice kept our office on track for almost eleven years and her contribution to our work was invaluable.

The Office of the Ombudsman and Information and Privacy Commissioner is staffed by a small group of dedicated women who produce exceptional work on a daily basis. I thank each of them for their expertise, professionalism, sense of humour and guidance. ■

Accolades

Receiving Requests for Reviews, investigating concerns and resolving conflict is challenging work that requires a balanced and cooperative approach. We do not accomplish this alone. I offer our thanks to individuals and public bodies that recognize our common goals and help us work toward them.

This year the government Committee that worked to develop and present amendments to the ATIPP Act deserves special recognition. Their work has made a lasting, significant and positive impact to the Yukon's access and privacy laws. ■

Celebrating the Right to Know

Right to Know Day was established in 2002 and has grown into a worldwide, week-long event. Its goals are 1) to raise global awareness of an individual's right to access government information and 2) to promote access to information as a fundamental human right.

In 2009, we worked with fellow offices across Canada to acknowledge Right to Know Week, held from September 28th to October 2nd. We planned events and activities to help Yukoners learn about their access and privacy rights.

- Through our Streetfest we provided a free mobile shredding service for the public, to emphasize the importance of destroying personal documents when you are finished with them, in order to protect your private information.
- Local radio stations played a "song of the day" that highlighted privacy and access issues.
- We partnered with the Yukon Film Society to present two movies that illustrated the importance of access to information rights.
- The Commissioner was interviewed by CBC Radio about Right To Know Week.
- We hosted a National Town Hall Webcast on Citizen's Engagement and State Accountability.
- We hosted an ATIPP Coordinators' luncheon, which included an introduction to our new *Best Practices*, as well as a presentation by Josée Villeneuve, Director of Systemic Issues, Policy and Parliamentary Relations, Office of the Information Commissioner of Canada. ■

RIGHT*to*KNOW

Best Practices for Yukon ATIPP

In September 2009, the Information and Privacy Commissioner issued two Best Practices. The Commissioner's Best Practices are designed to provide guidance to the public and government, about the operation of the ATIPP Act. The Best Practices describe proven methods to be followed to achieve the best outcome. The first two are entitled *"Duty to Assist"* and *"Contents of a Response"* and were issued as benchmarks for what is required by a public body when responding to an access request under the ATIPP Act.

The first two Best Practices are posted on our website at **www.ombudsman.yk.ca/privacy/ipcpublications.html**. You may also contact our office at **867-667-8468** or **info.ombudsman@yk.ca** to request copies.

More Best Practices about the Yukon ATIPP Act are on their way. ■

Your Health, Your privacy: A *Health Information Act* for Yukon

In September 2009, Yukon Health and Social Services Minister Glenn Hart announced that the Yukon government is developing a personal health information law.

Personal health information is collected by government and by a variety of health care providers, to inform decisions about health care. Yukoners expect this information to be protected by all health care providers.

The goals of the new legislation are reported as follows:

- To develop additional protections, given the sensitivity of personal information and the technological changes that are being made in health care;
- To ensure that health care providers have the information they need to provide high quality care;
- To address the sharing of information required by health care professionals in other Canadian jurisdictions;
- To support a system that uses both electronic and paper health records and allows personal health information to be accessed by health care professionals when and where necessary; and
- To respond to technological advancements.

A reference group was established to develop recommendations on the legislation. We understand that a public consultation paper will be available following the work of the reference group.

With current and new electronic health information data-sharing initiatives, it is more critical than ever that the Yukon have health information legislation as soon as possible. If you are interested in this topic, feel free to contact our office to obtain the Select Bibliography which we prepared to aid the reference group.

Our office is being apprised of the reference group's activities and are receiving regular updates. ■

The Privacy of Children... Online

In November 2009, the Yukon Information and Privacy Commissioner announced the national launch of a discussion paper from the Canadian Privacy Commissioners Online Children's Privacy Working Group. Entitled *"There Ought To Be A Law: Protecting Children's Online Privacy in the 21st Century"*, the launch coincided with National Child Day on November 20th, which also marked the 20th anniversary of Canada's signing of the United Nations' Convention on the Rights of the Child.

Children are particularly vulnerable to Internet-based exploitation and the discussion paper calls for a number of law reform proposals to better protect children's privacy online.

In the meantime, the message to children, parents and guardians, is to think first before they click. If they are about to post a picture online, or disclose personal information such as their birthday or where they are going to be that evening, they should think about it first. If they have any doubts about whether they want a world of web users to see the information, they should not post it online.

The discussion paper can be found on our website at **www.ombudsman.yk.ca/pct/Children'sOnlinePrivacy+.pdf** ■

The IPC — Working For All Yukoners

In addition to dealing with Requests for Review and complaints from individuals, the Office of the Yukon Information and Privacy Commissioner is responsible for monitoring how the ATIPP Act is administered to ensure its purposes are achieved. This is the kind of work that most people would not be aware of, but in the long run, it benefits all Yukoners. It includes monitoring proposed or existing legislation or programs and commenting on access and privacy issues identified. It also includes working on a national level, together with other Information and Privacy Commissioners.

We work to contribute valuable information and perspectives, in the public interest, when matters come to our attention. Here are some examples of how this work affects us all.

City of Whitehorse Census — No Sharing

In March 2009, media stories and telephone enquiries to our office brought a privacy issue to our attention. The issue related to the City of Whitehorse proposing to share city census information with the Yukon government. City of Whitehorse By-Law 2009-15 indicated that the City of Whitehorse may share "the census data with other levels of government". The Yukon Information and Privacy Commissioner met with officials from the City of Whitehorse to discuss what personal information would be collected by the City of Whitehorse through the census and what personal information would be provided to other levels of government from the City of Whitehorse.

A key concern for us was that the City of Whitehorse was planning to collect personal information, including postal codes, as part of the census and then share that information with Yukon government departments (known as public bodies in the ATIPP Act). Public bodies are only permitted to collect personal information directly from the individual it is about and collecting such personal information from any other source, like the City census in this instance, is contrary to the ATIPP law.

The Commissioner provided the City with information about why postal codes are personal information. Recent studies have shown that a postal code provides enough information (with linkage to other records) to be used to re-identify individuals. This re-identification is even more pronounced in small jurisdictions like the Yukon.

The Commissioner confirmed with the City of Whitehorse officials who met with her that any data sharing with public bodies could only be in aggregate form and that no personal information collected in the census, including postal codes, could be disclosed. The collection of de-identified aggregate data by a public body would not be considered the collection of personal information and is therefore permitted.

The City of Whitehorse incorporated changes into the census process which included an explanation of the purpose for which the information was being collected and assurances that personal information would not be shared.

Media coverage of this issue helped to inform the public about how the privacy of the census information would be protected.

Privacy Protection — STEP By Step

Our office received a complaint that the Yukon government department of Education was requesting the personal information of Student Training and Employment Program (STEP) students from private sector employers. We emailed the Whitehorse Chamber of Commerce to inform them that the department of Education had no authority under the ATIPP Act to request this information from private sector employers. The law requires that personal information be collected directly from the individual the information is about. The Chamber sent out an email to advise its membership. The department of Education reviewed its program and retracted its request to private sector employers.

Does ATIPP Apply? — Questions From Private Sector Health Care Practitioners

Over a period of many months, a group of private licensed health care practitioners communicated with our office about the application of the ATIPP Act to their counseling practices. They were concerned about how the ATIPP Act applied to them in this role and were seeking information about the legislation.

We were pleased with this proactive approach and provided all the information we could to help the group clarify their obligations. Most of their work, as independent private practitioners, would fall under Canada's *Personal Information Protection and Electronic Documents Act* (PIPEDA) but the Yukon ATIPP Act does impose certain obligations for the protection of personal privacy in relation to the records they keep when providing services under contract for the Yukon government.

Community Libraries Collect Personal Information

It came to our attention that Yukon Community Libraries was changing its membership records and methods of collecting personal information, in order for students to have a library membership. It was planning to collect the student information from the department of Education in an effort to streamline processes. However, community libraries are part of the Yukon government, and therefore must comply with the ATIPP Act, which requires the collection of such personal information directly from individuals, rather than from another government department. The department of Education was aware of its obligations and did not intend to provide personal information to community libraries.

Yukon community libraries had to rethink its approach and undertook a membership drive instead which allowed it to collect information directly from students and other members, as required by the ATIPP Act. ■

The Commissioner's "Comments"

Protecting the Public Interest

The opportunity for our office to review and comment on the implications for access and privacy in proposed and existing legislation or programs is vital. Our expertise is valuable, our perspective is unique and comments are always made after careful consideration and in the public interest.

Public Health and Safety Act

In September 2009, our office was invited to comment on draft amendments to the *Public Health and Safety Act*. The amendments were to move forward in the fall sitting of the Yukon legislature in order to "strengthen Yukon's ability to act quickly to protect public health", in situations such as a severe pandemic. There were several references to the ATIPP Act and to collection of personal information in the proposed amendments. Although there was limited time and opportunity provided to comment, a representative of our office attended a meeting with government officials, including the Medical Officer of Health, on September 23rd.

We objected to the proposal to make certain provisions in the *Public Health and Safety Act* paramount to the privacy protections set out in the ATIPP Act. In other words, actions taken under the *Public Health and Safety Act* would not have to comply with the ATIPP Act.

The Commissioner cautioned that legislation should only be made paramount to the ATIPP Act in very limited circumstances. Overriding the provisions of the ATIPP Act may undermine the public's confidence in the authorized processes and oversight function of that law. It may also have the effect of eroding the government's commitment to open, transparent and accountable government. Creating separate regimes for particular types of records, can result in public confusion and an unnecessarily complicated patchwork of privacy and access legislation.

The ATIPP Act requires that personal information be collected directly from the individual the information is about. One of the *Public Health and Safety Act* amendments proposed to permit the Minister of Health and Social Services and the Chief Medical Officer of Health to indirectly collect individual personal health information if the information is for any of the purposes mandated by the Act. Despite the Commissioners objections, this amendment was made to the Act. At the Commissioner's urging, the government did add a requirement that individuals must be notified about such collection of personal information, unless it is collected in a health emergency or if it is unreasonable to comply with the ATIPP Act at the time of the collection. The amendments were tabled in the legislature and proclaimed in force November 3, 2009.

Government Forms: Collect Only What is Needed

The department of Education asked our office to review and comment on a new form it had created. The form would be sent to all students, parents or guardians to collect student personal information for statistical purposes, and for the department's new database called the Yukon Student Information System (YSIS). The YSIS would be used to track the academic performance of Yukon children and to hold all current and relevant academic information for each child.

Our office met with the department to discuss the form. We provided many suggestions for changes in order to limit the collection of personal information and to meet other requirements of the ATIPP Act. These include requirements to tell an individual the purpose for collecting their personal information, the legal authority for collecting it and the contact information for someone within the public body who can answer questions about the collection. Our comments were considered and the Department of Education made revisions to the form as a result.

The Information and Privacy Commissioner is developing a Best Practice to assist the public and government in understanding the limitations on the collection of personal information by public bodies. ■

Reviews and Complaints — Case Summaries

One of the roles of the Information and Privacy Commissioner is to conduct independent Reviews and Inquiries when individuals disagree with a decision made by a public body to refuse access to records or to sever (delete) portions of a record. The Commissioner also investigates complaints about the operation of the ATIPP Act. We've collected here a number of stories that illustrate some of the work we've done through Requests for Review or investigations of complaints in 2009. The stories illustrate the assistance we can provide and the results achieved. Because our services are confidential, we've changed the names of the individuals involved.

Privileged Information not Privileged Record

Finance

A Yukon MLA asked our office to review a decision made by the department of Finance. It had refused to give him access to one record, a two-page retainer letter for legal services. The department of Finance claimed that the ATIPP Act gave authority to refuse access to the record, based on solicitor-client privilege. However, the MLA argued that the department of Finance had waived solicitor-client privilege when the Premier, as the Minister of Finance, spoke publicly to the media about the resulting legal opinion.

The Commissioner conducted an inquiry into the matter and found that the department of Finance met the burden of proof mandated by the ATIPP Act and had the authority to refuse access to the record, based on solicitor-client privilege. She also found that the Minister's remarks did not waive that privilege.

However, the Commissioner also found that some of the information in the record was not subject to solicitor-client privilege and so that portion of the record could be shared with the MLA who made the request. The department complied with the Commissioner's recommendation.

Public Bodies — Take Time to Save Time

Justice

Jim had sent a request for access to information to the department of Justice. He came to us to ask for a review of the department's response. He was not satisfied because the department had refused to grant access to the records he requested and he believed that the department had not collected, used or disclosed his personal information in compliance with the ATIPP Act.

Most of his issues were settled through mediation by our office, except for one. Jim still could not understand why his request for information had been refused, nor was it clear whether the department had looked for the right record, or even if the department had the record he wanted.

The matter went to Inquiry and the Commissioner invited the parties to a Pre-Inquiry Conference to clear up the confusion. Before the Pre-Inquiry Conference, the department had prepared a Schedule of Records. A Schedule of Records is a document prepared by a public body to indicate what records have been identified as responsive to an access request. It also states which records are being provided to the requestor or withheld and why. The Schedule of Records helped Jim clearly see what records had been located in response to his request. However, there was still a question about whether or not one record was responsive to the request. To resolve that issue, the Commissioner was provided with a copy of the record. She determined that it was not responsive to Jim's request. Because of this, the Commissioner could not conduct the review that Jim had requested.

After this was disclosed at the Pre-Inquiry Conference, a mediator from our office led discussions between Jim and the department. This resulted in the department giving Jim information which fully satisfied his request.

Wrong Wording Wreaks Havoc

Health and Social Services
Energy Mines and Resources

This year we had two cases that illustrate the same points. Both of these cases were resolved through mediation by our office.

Elizabeth, a Whitehorse reporter, had asked the department of Health and Social Services for external reports and other records on the condition of the Thomson Centre Building in Whitehorse. She became concerned because the Yukon government Records Manager twice gave the department extensions of time to respond to her request.

Elizabeth asked us to review the Records Manager's decision to grant the time extensions. Through mediation, she learned that because of the way she worded her access to information request, more than 21,000 electronic records and approximately 600 paper records were identified as being responsive to the request. As a result, the public body requested extra time to provide the records.

In a similar case, Henry had asked the department of Energy, Mines and Resources for information about his Lands file. The Records Manager extended the time for the department to respond and Henry asked us to review the decision to grant an extension.

In both cases, once the requestor re-worded the access request to more accurately reflect the records they wanted, the department was able to identify and provide the records very quickly.

These cases illustrate the need for requestors and public bodies to work cooperatively on access to information requests. Applicants need to carefully word their requests to ensure they accurately reflect the records they are seeking. Public bodies have an obligation to work with the requestor so that they understand fully what records are being sought. These actions, on the part of both the requestor and the public body, will help avoid delays and unnecessary work.

continued on next page...

Statistics — Information and Privacy Commissioner Services

Every year, this office is contacted by many Yukoners who are seeking information, Requesting Reviews of a decision by a public body about an access request, or making a privacy complaint.

The ATIPP Act provides for several processes including Requests for Review and Inquiries and investigation of complaints about the collection, use and disclosure of personal information or about the administration of the *Act*.

When complaints or issues are brought to us that are outside our jurisdiction, we still try to help. We often spend time directing citizens to the right place or making enquiries on their behalf to ensure that they are on the right track.

The ATIPP Act also authorizes the Commissioner to provide comment on the access and privacy implications of proposed legislation or programs. This ensures that proper consideration is given to access and privacy when new programs or legislation are introduced.

S. 48 Requests for Review

Brought forward from 2008		**2**
Received in 2009		**10**
Community Services	1	
Energy, Mines and Resources	1	
Finance	1	
Health and Social Services	1	
Highways and Public Works	1	
Justice	1	
Public Service Commission	3	
Yukon Development Corporation	2	
Yukon Housing Corporation	1	
Total		**12**
Completed in 2009		**10**
To Inquiry	1	
Mediated	7	
Discontinued	2	
Carried forward to 2010		**2**

S. 42(b) Complaints

Brought forward from 2008		**2**
Received in 2009		**3**
Total		**5**
Completed in 2009		**2**
Withdrawn	1	
Settled prior to investigation	1	
Investigated	-	
Carried forward to 2010		**3**

S. 42(c) Comment on Proposed Legislation

Brought forward from 2008	**10**
Received in 2009	**13**
Total	**23**
Completed in 2009	**11**
Carried forward to 2010	**12**

Non-jurisdictional Complaints

Federal	9
First Nations	1
Municipality	1
Other	1
RCMP	1
Total	**13**

Requests for Information

Total	**33**

2009–2010 Budget Summary

The budget for the operations of the Office of the Ombudsman and the Information and Privacy Commissioner is submitted annually to the Members' Services Board for review before being approved by the Legislative Assembly. The budget summary below covers both functions of the office for the period from April 1, 2009 to March 31, 2010.

The 2009–2010 budget remained relatively unchanged from the previous year.

Category	Expenditures
Personnel	$ 403,000
Office and Operations	$ 105,000
Supplies and Services	$ 2,400
Capital Items	$ 2,000
Total	**$ 512,400**

The Commissioner's "Comments" — continued from previous page...

Persistence Pays Off

Yukon Development Corporation

A Yukon MLA's office made an access request to the Yukon Development Corporation (YDC) for ministerial briefing notes. The notes were provided, but with some portions severed, so that he could not see them. Instead of giving up at that point, the MLA then asked our office to review the decision made by the YDC to delete certain parts of the record. His persistence paid off. After receiving the notice of the Request for Review, the YDC reconsidered its response and the records requested were given to the MLA, with no information severed.

It is important that that individuals exercise their right under the ATIPP Act to Request a Review of a public body's decision to refuse access to (all or part of) a record in response to an access request. Sometimes Requesting a Review of a decision by our office may result in a public body taking a second look and reconsidering its response.

Attachments — On the Record

Yukon Housing Corporation

Bruce, a reporter in Whitehorse, asked us to look into a decision made by the Yukon Housing Corporation. He objected to its decision to deny access to part of a record he had requested. The part of the record not provided was an attachment to an email.

We began looking into Bruce's complaint but discontinued our efforts when the Yukon Housing Corporation decided to provide the email attachment to him.

The ATIPP Act requires public bodies to respond openly, accurately and completely to access requests. Attachments to emails, sticky notes, margin notes and other sorts of additions are part of a retained record and must be included for a response to be complete. ■

News Releases

The Office of the Information and Privacy Commissioner (IPC) issues news releases throughout the year in order to provide information to the public through the media. In 2009, the IPC issued the following news releases:

January — Obama Applauded ■ The Yukon IPC applauded U.S. President Barack Obama's announcement regarding a new era of open government, which directed departments and agencies to renew their commitment to accountability and transparency by adopting a presumption of disclosure. The IPC supports this public affirmation and commitment to the principles embodied in access and privacy legislation.

February — Privacy Risk ■ The IPC cautioned that the draft *Mandatory Testing and Disclosure Act* would put privacy at risk. The draft Act contemplates the creation, collection and disclosure of extremely sensitive personal health information. The Commissioner recommended that the Act not proceed until there is a comprehensive legislative scheme in the Yukon to adequately protect personal health information.

July — Annual Reports ■ The 2008 Annual Reports of the Ombudsman and Information and Privacy Commissioner were released in July. Our news release advised that the 2008 reports focussed on awareness, leadership and resources.

November — Children's Online Privacy ■ We announced the national launch of the Online Children's Privacy Working Group's Discussion Paper "There Ought To Be A Law: Protecting Children's Online Privacy in the 21st Century."

December — ATIPP Act Amendments ■ The IPC applauded amendments passed to the ATIPP Act, which expanded the scope of the law to include the Yukon Hospital Corporation, Yukon College, Yukon Development Corporation, Yukon Energy Corporation and the Yukon Workers' Compensation Health & Safety Board. As a result, these organizations must now comply with the privacy and access provisions of the ATIPP Act. ■

Out and About — Where We've Been in 2009

Conferences & Presentations 2009

January

- Yukon College — Records Management Class Presentation, Whitehorse, Yukon

February

- Investigator's Conference — Ottawa, Ontario
- Canadian Information and Privacy Commissioners' Meeting — Ottawa, Ontario
- *Public Health & Safety Act* Meeting — Whitehorse, Yukon

June

- Canada Health Infoway PrivacyForum — Halifax, Nova Scotia

September

- Canadian Information and Privacy Commissioners Meeting — St. John's, Newfoundland and Labrador
- Yukon Indian Development Corporation Foundations Conference — Whitehorse, Yukon

November

- Canada Health Infoway Privacy Forum, Toronto, Ontario ■

Contact Us

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